

REMARKS/ARGUMENTS

Claims 1-10 remain in the application for further prosecution. Claims 1-3 and 6-8 have been amended. Claims 11-23 have been withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 1-10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bennett (WO 98/09259) in view of Gasper et al. (U.S. Patent No. 6,213, 873).

One requirement of a *prima facie* case of obviousness is that the prior art references must teach or suggest all of the claim limitations. The missing claim features and limitations are addressed below.

Not All Claim Limitations Taught Or Suggested

The Office Action states that Bennett does “*not disclose that the processor varies its style of play throughout the game*” (page 3). The Office Action cites Gasper for this missing limitation and alleges that Gasper allows “*the processor to vary the winning strategy for selections with each successive turn*” (page 3). The Office Action further states that “*adapting the response of the processor to the player’s skill, the probability of using a winning strategy is based not upon a set function for playing, but on a variance in response to game play*” (page 3).

The Applicants point out that Gasper chiefly achieves the desired level of play based on the processing time allotted. Gasper states, “. . . a target time for the game brain to think each move is retrieved . . .” (column 10, lines 35-36). The allotted processing time determines the number of potential moves that can be evaluated and, thereby, the skill level of the play. To play at a lesser skill level, the processor is allotted less processing time, allowing fewer potential moves to be evaluated.

In contrast, in the present invention, all possible moves are evaluated. As can be seen from the sample game arrays in the application (page 12, lines 1-5), all of the potential game selections are evaluated for their effect on game outcome. The processor then randomly selects one of the potential selections (page 11, lines 14-21). To give the game greater realism, each potential selection is probability weighted for achieving a winning outcome (page 11, lines 5-10).

Gasper uses an entirely different mechanism for selecting game moves. Gasper only allows the best processor-determined move to be made (limited by the allotted processor time). There is no random selection process between the potential moves in Gasper.

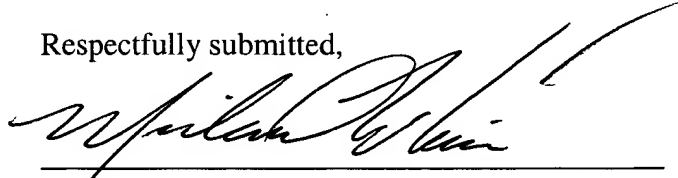
Independent claims 1 and 6 have been revised to more clearly and distinctly claim the invention to reflect this difference. Claims 1 and 6 now state, in part, “*each selection of the processor randomly determined after applying a weighted probability for achieving a winning outcome to each unoccupied ones of the locations, the weighted probability varying with successive ones of the selections by the processor.*” This more definite claim language is supported by the application (page 11, line 4, through page 14, line 10).

It is this random selection from a probability-weighted evaluation of each possible selection that is the missing element from the Gasper reference. This random selection process is critical to the present invention, as regulatory authorities generally do not allow sophisticated games of mental strategy to be employed in gaming machines. Wagering games and, in particular, slot and video gaming machines are generally limited to utilizing random selection processes with weighted probabilities to determine the outcome of a game. Consequently, the game implementation described by Gasper teaches away from an acceptable game for a gaming machine and is generally unacceptable for the intended purpose of the present invention.

Conclusion

It is the Applicants' belief that the claims are now in condition for allowance, and action towards that end is respectfully requested. If any matters may be resolved or clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at the number shown.

Respectfully submitted,



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